

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN HURLEY, JR.,

Plaintiff,

v.

CAROLYN W. COLVIN,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

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CIVIL ACTION NO. 14-6620

ORDER

AND NOW, this 17th day of February, 2016, after considering the complaint (Doc. No. 3), the administrative record (Doc. No. 6), the answer to the complaint (Doc. No. 7), the plaintiff's brief and statement of issues in support of request for review (Doc. No. 11), the defendant's response to the request for review (Doc. No. 12), the plaintiff's reply brief (Doc. No. 14), and the report and recommendation filed by United States Magistrate Judge Marilyn Heffley (Doc. No. 15); and no party having filed objections to the report and recommendation; accordingly, it is hereby **ORDERED** as follows:

1. The report and recommendation (Doc. No. 15) is **APPROVED** and **ADOPTED**;¹
2. The plaintiff's request for review is **GRANTED IN PART** and **DENIED IN PART**;

¹ Since neither party filed objections to Judge Heffley's report and recommendation, the court need not review the report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Nonetheless, "the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report." *Id.* As such, the court will review the report for plain error. *See Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) ("In the absence of a timely objection, . . . this Court will review [the magistrate judge's] Report and Recommendation for clear error." (internal quotation marks omitted)). The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). The court has reviewed Judge Heffley's report for plain error and has found none.

3. The final decision of the Commissioner is **VACATED** and this matter is **REMANDED** to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with the report and recommendation; and

4. The clerk of court is **DIRECTED** to mark this matter as **CLOSED**.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.